

REMARKS

Claim 29 has been amended to indicate that the second holding member has an opening that has a diameter marginally larger than the diameter of an end of the baton that is distal to the grip end of the baton.

The objection to the drawings submitted on 8/22/2006 as including new matter is traversed. The Applicant believes that support for the embodiment shown in Figures 6 and 7 can be found in Applicant's disclosure at page 2, lines 13-15, wherein it is stated that "*[s]till another attachment arrangement is achieved by making the baton holder an integral part of a garment such as a waistcoat or the like, e.g. a waistcoat that constitutes part of a uniform or a bullet-proof vest*". Accordingly, favorable reconsideration of the objection to the drawings is urged.

The rejections of the claims under 35 U.S.C. 102(b) and 103(a) in view of the Gregg, Parsons et al., Oakes, Austin et al., McClellan, Ratcliffe et al., Marino, Chee, and Chen references, as set forth on pages 2-4 of the final Office action are traversed.

For the following reasons, it is Applicant's belief that the cited references do not disclose or suggest the claimed subject matter.

The Parson document cited also in the first Office action is again referred to, but this time in combination with the teaching of **Gregg (US 6,217,072)**. Gregg does not concern batons but a snowboard pole system. The length of the holder is adjustable, but as seen from e.g. Figure 9, the distance

between (what may be considered as) the first holding member 84 and (what may be considered as) the second holding member 92, remains the same even when the length of the entire holding system is changed. It is therefore not in accordance with the definition of claim 26 of the present invention. It is also questionable if the holding members (84 and 92) should be seen as separate from each other when in use they are actually attached to one another with bolts or screws 108. Finally, the Applicant cannot see that first holding member 84 is provided with a locking device as defined in present claim 26.

Therefore the combination of Parsons baton holder and the pole holder of Gregg does not make obvious the present invention.

Austin (US 4,006,825) teaches a fishing rod support which is intended for storage of the fishing rod. It is therefore different in nature from a baton holder which a person will carry. The fishing rod support of Austin consists of two members which are not adjustable in relation to one another and the grip end of the fishing rod is at the fully encircling holding member 12 which corresponds to second holding member two of the present invention. Thus the orientation of the holder in relation to the fishing rod is reverse of that of

the present invention and the use quite different. It is not an object of the fishing rod support to maintain the fishing rod in a "state of readiness" and the movement of the fishing rod out of the Austin support would be quite unsatisfactory for a baton.

Ratcliff (US 6,435,469) concerns an umbrella mount for solely vertical orientation. The lowermost support or holding member is intended to embrace or encircle the grip end of the umbrella. This is the holding member which fully encircles the umbrella handle and therefore corresponds to second holding member of the present invention. Thus, again the orientations of the "tool" (the umbrella) is opposite or reverse to that of the baton in the present baton holder where the grip end is at the holding member provided with a locking device. Furthermore the lowermost holding member of Ratcliff is not intended to be attached to anything, it just hangs onto the uppermost holding member and is therefore (unlike the holder of the present invention) not separate from the first one. The possibility of separating the two from one another by unscrewing the screw 85 does not really change that, since once the screw 85 is removed and the holder disassembled in two parts, it is impossible to use for the intended purpose. Thus, this holder does not really comprise separate holding

members in spite the fact that the holder is separable when not in use.

Marino (US 4,751,923) describes some very specialized personal (or medical?) equipment which can hardly be compared to the teaching of the present invention at all. The Applicant cannot understand how the details 38 and 58 of this equipment can be compared with the present holding members. A carpenter's tool belt must be closer to the present invention than this.

Chen (US 4,863,083) concerns a belt or strap with holding elements designed to carry skies and shoes. Each holding member is independent of the other holding elements (not two different holding elements designed to interact with one another) and not of a kind from which a person skilled in the art could possibly learn anything regarding carrying a baton in a state ready for use.

Oakes (US 3,992,799) teaches a rod retaining socket and bracket which apparently are not intended to be attached to anything but a fishing rod and therefore has very limited value in relation to the present invention. It seems that the Examiner only has cited this document to show the prior use of synthetic rubber material or the like. No further comments should therefore be required.

McClellan (US 4,132,381) concerns holder for a fishing rod. It is of little relevance for the present invention since the two holding members (contradictory to the present invention) seem to be identical and the distance between them a fixed one, and no indications whatsoever given with respect to the challenges of carrying a baton.

Chee (US 5,086,762) concerns a "typing brace" which Applicant believes has no relevance to the present invention. What could a person skilled in the art of baton holders possibly learn from this publication?

Widerman (US 6,370,810) again shows an example of a holder for a fishing rod. This holder comprises two identical holding members which must both be opened when the fishing rod is to be removed. The distance between the holding members is not adjustable. Again there is nothing to learn for a person skilled in the art of developing holders for a baton that needs to be readily accessible and yet not interfering with a person's movement.

Wood (US 3,421,632) teaches a rack for holding several fishing rods in a mainly vertical direction with the grip end at a holding member which is designed to fully encircle said grip end of the fishing rod.

It is clear from the above amendments and remarks that none of the prior art references cited by the Examiner disclose or suggest the claimed invention.

Accordingly, withdrawal of the rejections of the claims under 35 U.S.C. 102(b) and 103(a) is respectfully requested.

The Applicant submits that the application is now in condition for allowance, and an early notice to that effect is earnestly solicited. If any issues remain that can be clarified by telephone, Examiner Mai is encouraged to contact Applicant's Representative at the number indicated below.

Applicant hereby petitions the Commissioner for Patents to extend the time for reply to the notice dated August 21, 2007, for three (3) months from November 21, 2007, to February 21, 2008. A duly completed credit card authorization form is attached to effect payment of the extension fee.

Respectfully submitted



Date: February 21, 2008

Malcolm J. MacDonald
Reg. No. 40,250
Tel: (703) 837-9600 Ex. 24